

## **LII Distance Learning Issues and Options**

### **I. What we are learning with the 2000-2001 courses**

- *The technology, pedagogy mix we have chosen for content delivery and interaction is sound*
  - Streaming audio driving a web browser is a powerful way to present legal topics, especially those that involve close work with central texts.
  - A paced asynchronous law course can be both demanding and interactive.
  - With four mastery exercises and more numerous "everyone submit before we discuss" points, greater interactivity across the entire enrollment of a class can be achieved than most classroom courses afford.
  - The ease of integrating non-print materials (e.g., graphics or music clips raising infringement issues, streaming video of a high profile appellate case or FDR's statement signing the Social Security Act) provides distinct advantages over the classroom.
  - Making distance learning courses entirely asynchronous has important attractions and education advantages for the students and results in a capacity for growth and adaptation that does not exist in DL models that depend on a significant "real time" component.
- *Courses built with this architecture should scale (focusing, for the moment, only on content delivery)*
  - Once the presentations and interactive material are created the numbers of students that can be taught in this format is largely a function of recruitment, training, and supervision of sufficient teaching assistants.
- *Courses built with this architecture appear to be both sustainable and reconfigurable*
  - To run the two courses Martin has created this year for the same number of law students a second time will entail updates, problem revision, as well as improvements of diverse other kinds but in all no more than 10-15 percent of the effort of original creation. That plus a full repeat of the reading of student submissions, participation in the on-line discussion, exam creation and grading constitutes a level of effort consistent with law school teaching norms.
  - To reconfigure either course to a short "introduction to \_\_\_" version with little or no interactivity, on the one hand, or to a version aimed at non-lawyer professionals or undergraduate students should be quite feasible.
  - It must be noted, however, that now and for some time to come there is a high degree of author lock-in. In other words, maintenance and alteration will be nearly impossible without the course creator's ongoing involvement, unlike printed course materials where replacement authors can be brought in to update and revise.

### **II. The LII's assets in this area, as well as some it lacks**

- *First mover advantage*
  - We are widely acknowledged to be out front of other law schools in this area (Concord excepted).

- Others have experimented with real time classroom video conferencing, but no others have our experience (now totaling five years) with asynchronous, revenue generating distance learning.
- Among ABA-accredited law schools we have positional advantage that should allow us to continue to move ahead of the pack.
  - We are not complacent. Indeed, we have considerable momentum.
  - We have sufficient stature that we can (for a time) market courses to many other law schools and operate without fear of ABA intimidation.
- If we capitalize on this advantage we can:
  - Set the technological and pedagogical standards
    - And if we can succeed in setting those standards, we assure that they will be at levels that are attainable by law schools. (If the likes of PLI and Concord set the standards the production values and associated costs are almost certain to be much higher, in all likelihood beyond our reach.)
  - Acquire market penetration that will be unavailable to us if we delay
- ***Technology and information infrastructure***
  - This year we (Bruce, Hughes, and Crooks with input from Martin) have built database, registration, authentication, and web conferencing systems capable of handling a wide diversity of distance learning programs.
    - This spring students will be registering with us on-line. Adds and drops will also be transacted on-line.
    - The mastery exercise submission system is, in truth, an on-line examination system capable of feeding student answers directly into a database.
    - That "quiz" database permits on-line entry of grades and export of all marks for a course to spreadsheet format.
  - While we have, to date, relied on other institutions (the participating schools) to select, certify, and pay, with the addition of an industrial strength commercial transactions application ("market basket" with credit card charge and real time validation), presumably supplied by a third-party chosen by the university for such services on a wider scale we would have the capacity to move to retail sale and individual delivery of distance learning content (see III, below).
  - Our stature and experience as electronic publisher, together with our license from LOISLAW, makes it possible for us to integrate "learning" components with electronically delivered course materials in a way that no other U.S. law school can. (Either LEXIS or WESTLAW could blow us away on this front, but neither shows any inclination to move into distance learning. LEXIS is actually relinquishing its rights in a huge DL asset, "The Bridge Project." It is our belief that they have been unsuccessful in these areas largely because their primary concern in any contact with law students is driving up the preference numbers for their particular online service)
  - We have successfully run a server handling the streaming media demands of 100 plus students this fall and developed unique experience (among law schools) in the production of original audio material linked to text and the conversion of existing video and audio material to the dominant "RealMedia" format.

- Bruce's work on "The Bridge Project" gives us unmatched experience in combining text, inactive material, sound, and video to create standalone hypermedia course materials.
- *An effective, scalable and sustainable mix of pedagogy and technology*
  - See I above.
- *Key areas in which the LII lacks capacity and experience*
  - While our technology systems have been built with a complex future in mind, technology staff needs will increase in rough proportion to the number of enrollees. And, as is true of administration and student support, the moment we move beyond delivering courses to and through other law schools the staffing need per student will increase. So far all our enrollees have had their own institutions to turn to for tech support. With courses offered undergraduates or, even more so, the general public most if not all support needs will fall, at least in the first instance, on us. (Even if a performance problem experienced by a distant student is the consequence of an ISP capacity limitation or configuration decision, the LII, as course provider, will inevitably be the first point of contact.)
  - Because we have, to date, worked through other law schools we have no experience with or staff capable of handling the "dean of students/registrar" functions. In our current model all issues of who can take a course (or drop it, when, and for reasons), who is in fact taking a course and its exam, whether basic academic integrity norms are complied with, long-term record-keeping, data privacy, and so forth are dealt with by the participating institutions. That we have built an on-line registration system doesn't mean we have any staff capacity for handling these administrative or student support matters.
  - While we have had success, to date, in marketing our courses to a limited number of law schools and great success in generating enrollments in those schools, we have no experience in selling or delivering law courses into the new markets we contemplate. The challenge here lies in identifying and successfully marketing to logical affinity groups. It's very easy for us to identify (say) "video artists and musicians" or "Web designers" as groups that would benefit from (and therefore might well purchase) education about copyright, but communicating with them and selling to them will require staff with knowledge and skills we don't currently possess. To some extent this also applies to building for such distinct audiences or refining what we've already built so as to meet their needs.

### III. Next steps: Our options

- *Simply repeating this year's courses by Martin with refinements*
  - Martin views that as a waste of his time. It would also represent a dangerous squandering of our first mover advantage.
  - For some time, our lead over other law schools, the strength of our faculty and our stature among law schools should allow us to build courses working within the familiar law school / law student envelope before we adapt and deliver to other audiences (see below). This year's experience suggests this to be both viable and cost-effective.
    - It allows courses to be built with a fairly secure short-term revenue base.
    - By utilizing the administrative and crediting apparatus of other law schools we dramatically reduce the administrative and support burden during the construction and trial period for a course.
    - It also finesses some of the accreditation issues that would spring forth were we to offer JD credit-bearing courses directly to students over the Net.

- Marketing such courses to other law schools reinforces our profile as the leader in this field.
- ***Conducting a summer workshop***
  - One of the things we said to the schools that signed on for this year's courses was that it would provide them an opportunity to explore distance learning at first hand without doing it.
  - We also represented that they would have a right of first refusal on participation in a distance learning workshop to be held this coming summer.
  - We are positioned to run such a workshop the last week of June, immediately following the CALI conference.
  - Because of our infrastructure, such a workshop might serve as a means of recruiting digital adjuncts (see below) in addition to assisting other schools, establishing the standard, and reinforcing our leadership status. It would also provide a useful forum for feedback on our efforts and to assess future methods and offerings.
- ***Using this year's courses to experiment with adaptation for and delivery to other audiences***
  - The copyright course could be reconfigured for non-law students and be offered to Cornell students from other units next year (FCI is interested, but we presume the market for an introductory course that emphasized digital copyright issues would not be limited to FCI students).
  - Both the copyright and social security courses would provide excellent vehicles for experimenting with short-term (no more than a month) certificate courses to be offered to all comers via the LII Web site.
  - The copyright course could be reconfigured for non-U.S. lawyers or law students and be offered to overseas law firms or educational institutions on a variety of terms.
- ***Using our experience and the two 2000-2001 prototype courses to create courses in other fields***
  - There are numerous approaches to building out from the current Martin-centric offerings
    - Martin and Bruce could work collaboratively with one or more other members of the CLS faculty (Selected how? Enticed by what terms?) to create distance versions of full courses they currently teach, aiming to have them ready for delivery to and through other law schools in 2001-2002.
    - To state what our experience leads us to see as obvious: Even experienced and excellent teachers with enthusiasm for working in this new medium need time and assistance in learning how to adapt their methods of writing and teaching to the quite different environment.
    - A deliberate and orderly plan of expansion is critical. To overpromise and then disappoint in terms of support and developmental help would have huge institutional costs.
    - While eagerness to participate on the part of CLS faculty may not, at outset, be an issue, it will be important to establish the prime criteria for selection before issues arise. Until there are cross-subsidies sufficient to go around, we would put as top among those criteria: market potential and topical proximity/relevance to other existing or planned distance learning courses.
    - As for "enticed how", we might look at how those who have done broad curricular

reform *outside* of law schools have provided incentives as well as such familiar incentives as study leaves and summer grants.

- The LII could recruit DL faculty from other law schools (see summer workshop above), CLS alumni and other sources and in order to build a cluster of full JD or LLM DL courses in one or more distinct areas - such as IP, international commerce, employee benefits (Selected on what basis? Synergy with offerings created by CLS faculty? Market potential? Importance to other programmatic goals of the CLS including enhancement of its own curriculum in Ithaca or Paris?)
- The LII could create a large number of small non-credit DL modules (no more than an hour of introductory presentation) drawing on most of the CLS faculty and filling in with others, these to be offered on demand, initially without any human interaction, credit or credential for a modest fee off the LII "Law About ..." pages.

#### **IV. Choosing among and implementing options**

- ***The LII needs a business officer in order to have the capacity to choose and implement***
  - The need for such a person laid out in the LII management planning document last winter is significantly greater a year later, as is our confidence that the job should swiftly pay for itself in greater revenues (through the cultivation of the donor base we have begun with our on-line solicitations, more effective marketing and licensing of the LII information products we currently sell, not to speak of the DL possibilities outlined here).
  - This year's DL courses were conceived, marketed, and executed by Martin working in close collaboration with Bruce. With Martin as author and teacher no deals had to be struck. Decisions about price (\$500 per student) and scale (how many schools to invite to achieve a reasonable enrollment - 100 plus in the fall, 50-60 in the spring) were made by Martin, guided more by intuition than research. Although the results have been reassuring, we cannot move beyond the experimental stage on such a basis.
  - Regrettably we'll have to make decisions about next year without a business person; but we cannot do what we must next year (whatever that is) and build on that base without one.
  - We need the capacity for a planned, pyramidal expansion of offerings with benchmarks and milestones tightly related to revenue. We have a fair degree of confidence in our understanding of how competition could work among U.S. law schools entering the DL arena *with the intention of marketing to other law schools*, here and abroad. BUT... We have absolutely no idea of who our competitors might be outside the realm of U.S. law schools (e.g., all the executive-ed dot-commers) or how competition works when law schools sell into other markets. There is a widespread assumption that it's a winner take all market with high-reputation high-visibility schools like Harvard or Cornell strongly advantaged. But we wouldn't bet on it, necessarily, and we need someone who can find out. We need to make very competitive, selective, and strategic decisions.
- ***Certain choices must be made now***
  - By this time last year the DL plan for 2000-2001 was pretty much in place. The first contact with potential participating schools was an invitation Martin sent out to thirty law school deans on Feb. 7.
  - If we are to offer a course for undergraduates at Cornell in 2001-2002 (e.g., an introduction to copyright course), the arrangements with Bob Constable or others must be firmed up soon.
  - If we are to do a summer workshop in June 2001, details must be finalized soon and invitations sent.
  - Collaborations with other faculty (from CLS or elsewhere) should begin no later than this summer

and may need to be accounted for in next year's teaching assignments.

- We can't go in all the directions sketched above. Both Martin and Bruce need to plan their own work for the next year which includes many non-DL related elements.
- *A few preliminary considerations*
  - Martin is firmly resolved find some way to move from being DL author / teacher to collaborator, coach, architect for others beginning this coming year. (That doesn't mean getting totally out of the author / teacher role this coming year, but starting the process.)
  - Some market/course combinations are more plausible long term options for the LII than others
    - While delivering JD courses into other law schools is a proven way to build courses and competence over the near term, we don't foresee that as being so attractive a path for us as some of the alternatives. However, it might allow the school to draw and hold faculty with unusual expertise and stature (Social Security, Feministic jurisprudence, African law, ...), by affording a way to achieve critical mass, critical revenue, greater impact.
    - The CLE market strikes us as better left to others, at least for now, unless it can be served easily as a byproduct of programs aimed at other ones. One possible exception is Legal Ethics. Should CLS succeed in rebuilding its strength in the field of Professional Responsibility, the presence of the LII's remarkable American Legal Ethics Library, the school's past strength in the field, and the fact that most mandatory CLE rules require a healthy component of Legal Ethics suggest this as a plausible distance option. Any venture into CLE would entail a distinct set of validation, record-keeping, and administrative tasks.
    - Given the LII's large user base among professional people whose work is touched by law, short, certificate courses - e.g., on IP issues, on banking law issues, on environmental law, on police procedure - are, on the face of it, a strong option
    - Given the LII's large user base among educators at the high school and college levels, undergraduate courses ranging from CLS's distinctive "Nature, Functions, and Limits of Law" to Introductions to IP for \_\_\_, tax for \_\_\_, to Social Security for \_\_\_, constitute another attractive option, further enhanced by the prospect of positive externalities (boosting the school's profile among those who might someday become JD matriculants and their teachers).
    - Given the LII's large user base outside the U.S., Cornell University's strong world-wide reputation, and CLS's international ambitions, offering credit or certificate courses designed for and marketed to non-U.S. students and lawyers also appears attractive.
  - The LII's built in capacity for market research
    - For law schools and other educational institutions that haven't operated outside their own campus, any distance venture must be preceded by market research. With new markets, that cannot escape being largely speculative.
    - The LII audience and infrastructure allow us to test the market in ways others cannot, i.e., by putting out prototype courses of modest proportion and then learning from the response. Our prototyping (and potentially our marketing) costs will be much lower than those faced by others because of our existing human and technological resources, good will, and user base.
  - The plans and priorities of CLS
    - The LII distance learning initiatives might be shaped and conducted with only scant

connection to the interests and activities of the resident faculty and program plans of the school. Synergy with other LII activities and revenue for the institute are likely to provide ample basis for proceeding rapidly in this direction.

- On the other hand, some of the options noted above are attractive in significant part because of how they might enrich the educational program offered the school's resident student body, support a larger and more diverse faculty, draw on and thereby drawn in alumni, or strengthen the school's reach beyond the U.S.